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EXAMINER

PITARO, RYAN F

ART UNIT

PAPER NUMBER

2174

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/040,584	Applicant(s) KHO, SAMUEL	
	Examiner RYAN F. PITARO	Art Unit 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-22, 25-28, 30 and 35-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-22, 25-28, 30, 35-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This action is response to the amendment filed 7/21/2008. This action is Final.

Claim Rejections - 35 USC § 102

Claims 1-7,10-22,25-28,30 are rejected under 35 U.S.C. 102(e) as being anticipated by Hawkins et al (“Hawkins”, US 6,957,397).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

As per claim 1, Hawkins teaches a portable computing device comprising: a housing; a display accessible on a panel of the housing (Figure 1a, 110); and a processor coupled to the display, the processor being configured to (Column 2 lines 50-59): detect an input corresponding to a menu request (Column 3 lines 51-59); activate a first menu on the display in response to the menu request, the activated first menu

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displaying a menu bar and one or more menu items (Column 3 lines 51-59), wherein the menu bar corresponds to a portion of the first menu that provides an identifier of the first menu when the first menu is both active and inactive (Figure 2) , and wherein when the first menu is active, each of the one or more menu items is associated with an action (Figure 2, column 3 lines 57-60); process navigation input to navigate to the menu bar of the active first menu, including navigation input to cause the menu bar of the active first menu to be selectable (Figure 2 column 3 lines 60-63); process selection input for when the menu bar is selectable; and cancel activation of the first menu from the display in response to (i) the menu bar of the first menu being selectable and (ii) the selection input for the menu bar being processed (Column 4 lines 3-6).

As per claim 2, Hawkins teaches the portable computing device of claim 1, wherein the processor is configured to process navigation input to navigate vertically to the menu bar from one of the one or more menu items in the active first menu (Column 4 lines 42-46).

As per claim 3, Hawkins teaches the portable computing device of claim 1, wherein the processor is configured to execute an application that makes only the first menu available while a corresponding page of the application is being displayed on the display, and to process a lateral navigation input while the first menu is active in order to cancel the first menu from being active (Column 4 lines 14-24).

As per claim 4, Hawkins teaches the portable computing device of claim 1, wherein the processor is configured to process navigation input to navigate laterally from the first menu to the second menu in order to make the second menu active instead of the first menu, and wherein the processor is configured to automatically make a menu bar of the second menu selectable in response to the second menu being activated by the lateral navigation input (Column 4 lines 15-24).

As per claim 5, Hawkins teaches the portable computing device of claim 4, wherein the processor is configured to process navigation input to cause the menu bar of the second menu item to be selectable immediately upon the second menu being made active in response to the lateral navigation input (Column 4 lines 15-24), and wherein the processor is configured to cancel activation of the second menu from the display in response to the menu bar of the second menu being selected by the selection input (Column 3 lines 50-63).

As per claim 6, Hawkins teaches the portable computing device of claim 1, wherein the processor is configured to process the navigation input to make the menu bar highlighted for selection by the selection input (Column 4 lines 15-24).

As per claim 7, Hawkins teaches the portable computing device of claim 1, wherein the processor is configured to process navigation input to navigate from one of

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the one or more menu items of the first menu to the menu bar in order to make the menu bar selectable (Column 4 lines 43-46).

As per claim 10, Hawkins teaches the portable computing device of claim 1, wherein the processor is configured to process navigation input from actuation of one or more user-interactive features, the navigation input being processed by the processor to navigate to and make the menu bar selectable (Column 4 lines 13-24), wherein the processor is configured to navigate laterally from the first menu to a second menu in response to the actuation of the one or more user-interactive features corresponding to a lateral navigation input (Column 4 lines 13-24), and to make the menu bar of the active second menu bar selectable upon navigating to the second menu (Column 4 lines 43-46).

As per claim 11, Hawkins teaches the portable computing device of claim 1 O, wherein the processor is configured to process selection input when the menu bar of the second menu is made selectable in order to select that menu bar and cause cancellation of the second menu being active (Column 4 lines 2-6).

As per claim 12, Hawkins teaches the portable computing device of claim 1, further comprising wherein actuation of the one or more user-interactive features, each of the one or more user-interactive features causing discrete inputs to be processed by the processor, wherein the processor is configured to process navigation input

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corresponding to actuation of one or more of the plurality of user-interactive features to navigate to the menu bar vertically from one of the menu items in the first menu in response to receiving a series of one or more discrete inputs from operations of the one or more user-interactive features (Column 4 lines 43-46).

As per claim 13, Hawkins teaches the portable computing device of claim 12, wherein the series of discrete inputs correspond to a series of button presses (Column 4 lines 43-46).

As per claim 14, Hawkins teaches the portable computing device of claim 12, wherein the series of discrete inputs correspond to a series of button presses from a multi-directional button mechanism (Figure 1a 181/182) .

As per claim 15, Hawkins teaches the portable computing device of claim 1, wherein the processor navigates to the menu bar by highlighting the menu bar (Column 4 lines 43-46).

As per claim 16, Hawkins teaches the portable computing device of claim 1, further comprising one or more user-interactive features that are actuatable to cause navigation input to be processed by the processor, wherein a direction in which the processor navigates the menu bar is determined by a user selectively actuating the one or more user-interactive features (Figure 1a, 181/182).

As per claim 17, Hawkins teaches the portable computing device of claim 1, wherein the processor is configured to perform an action in response to one of the menu items of the first menu being selected (Column 3 lines 59-63).

As per claim 18, Hawkins teaches the portable computing device of claim 1, further comprising one or more user-interactive features that are actuatable to cause navigation input to be processed by the processor, and wherein the one or more user-interactive features includes a multi-directional mechanical feature (Figure 1a, 181/182).

As per claim 19, Hawkins teaches the portable computing device of claim 18, wherein the multi-directional mechanical feature is selected from a group of user-interactive features consisting of a joy stick, a joy pad, and a set of scroll buttons (Figure 1a, 181/182).

As per claim 20, Hawkins teaches the portable computing device of claim 18, wherein the one or more user-interactive features include a set of application buttons (Column 4 lines 59-63, Figure 1a).

As per claim 21, Hawkins teaches the portable computing device of claim 1, further comprising one or more user-interactive features are actuatable to cause navigation input to be processed by the processor (figure 1a), and wherein the one or

more user-interactive features include virtual features that appear on the display and which are selectable through contact with the display (Column 4 lines 34-36).

Claim 22 is similar in scope to that of claim 1 and is therefore rejected under similar rationale.

As per claim 25, Hawkins teaches the portable computing device of claim 22, wherein the application associated with each actuatable mechanism is different for each actuatable mechanism (Figure 1a, 181/182).

As per claim 26, Hawkins teaches the portable computing device of claim 22, wherein the actuatable mechanisms are buttons (Figure 1a, 181/182).

As per claim 27, Hawkins teaches the portable computing device of claim 22, wherein actuatable mechanisms in the set of actuatable mechanisms are each assigned an individual menu function corresponding to navigating menu items in one of either a lateral direction or a vertical direction (Figure 1a, 181/182).

As per claim 28, Hawkins teaches the portable computing device of claim 22, wherein at least one of the actuatable mechanisms in the set of actuatable mechanisms is assigned a menu function for selecting a selectable menu item (Column 3 lines 50-63).

As per claim 30, Hawkins teaches the portable computing device of claim 22, wherein the processor is configured to display a menu bar with each of the one or more sets of menu items in response to receiving the menu request (Column 3 lines 50-63), and wherein the processor is configured to cancel activation of the one or more sets of menu items in response to selection input for canceling the one or more active sets of menu items (Column 4 lines 7-25).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35-44 are rejected under 35 U.S.C. 103(a) as being obvious over Hawkins et al ("Hawkins", US 6,957,397).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an

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invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

As per claim 35, claim 35 is similar in scope to that of claim 1 with the exception of the multi-directional input having 4 or more directions. However, the number of navigational inputs on the housing is merely a design choice and is notoriously well known in the art. Adding 2,3, or even more input directions would yield a predictable result. It would have thus been obvious to one of ordinary skill in the art to include the multi-directional inputs to the method of Hawkins. Motivation to do so would have been allow the user to move in more directions to alleviate navigational latency.

Claim 35 is similar in scope to that of claim 1 and is therefore rejected under similar rationale.

Claim 36 is similar in scope to that of claim 19 and is therefore rejected under similar rationale.

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Claim 37 is similar in scope to that of claim 2 and is therefore rejected under similar rationale.

Claim 38 is similar in scope to that of claim 14 and is therefore rejected under similar rationale.

As per claim 39, Hawkins teaches the portable computing device of claim 35, wherein the series of navigation inputs from the multi-directional input feature include one or more navigation inputs from the multi-directional input feature being operated in the first direction and one or more navigation inputs from the multi-directional input feature being operated in a second direction, and wherein the processor is configured to scroll in the first menu or in the second menu in response to receiving the one or more navigation inputs from the multi-directional input feature being operated in the first direction, and scroll from the first menu to the second menu in response to the multi-directional input feature being operated in a second direction (Column 4 lines 7-47).

As per claim 40, Hawkins teaches the portable computing device of claim 39, wherein the first direction is a vertical direction, and the second direction is a lateral direction (Column 4 lines 7-47).

As per claim 41, Hawkins teaches the portable computing device of claim 35, wherein the processor is configured to (i) execute an application that makes only the first menu available while a corresponding content provided by the application is

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displayed on the display, and (ii) process a lateral navigation input while the first menu is active in order to cancel the first menu from being active (Column 4 lines 7-47) .

As per claim 42, Hawkins teaches the portable computing device of claim 35, wherein the processor is further configured to process a lateral navigation input in the series of navigation inputs to navigate laterally from the first menu to the second menu (Column 4 lines 7-47).

As per claim 43, Hawkins teaches the portable computing device of claim 35, wherein the processor is configured to cancel the first menu and the second menu in response to one of the navigation inputs in the series of navigation inputs (Column 4 lines 7-47) .

As per claim 44, Hawkins teaches the portable computing device of claim 35, wherein the processor is configured to open the first menu or the second menu using a given navigation input or selection input from the multi-directional input feature (Column 4 lines 7-47).

Response to Arguments

Applicant argues that none of the references cited by the Examiner disclose or suggest process navigation input to navigate to the portion of the active first menu that corresponds to the menu bar of the active first menu. However, Hawkins teaches being able to navigate using a touch screen. Using an on housing navigation directional pad in combination with claim 2 would be allowable. The Examiner invites the Applicant's representative to call for an Interview to discuss minor amendments to make the case allowable.

Applicant's arguments with respect to claims 2-7,10-22,25-28,30,35-44 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN F. PITARO whose telephone number is (571)272-4071. The examiner can normally be reached on 9:00am - 5:30pm Mondays through Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. F. P./
Examiner, Art Unit 2174

/Stephen S. Hong/
Supervisory Patent Examiner, Art
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